**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**O.O.C.J.**

**COMPANY APPLICATION NO.617 OF 2005**
**IN**
**COMPANY PETITION NO. 470 OF 1998**

Maharashtra State finance Corpn. ... Petitioner

V/s.

Nath Pulp and Paper Mills Ltd. ... Respondent.
(Applicant).

....

Mr. S.U. Kamdar i/b. Ramdasan K.V. for the Petitioner/Applicant.
Ms. Manorama Mohanti for Regional Director.

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**CORAM : DR. D.Y.CHANDRACHUD,J.**

**13th April 2007.**

**P.C. :**

. An order of winding up was passed against the Applicant, Nath Pulp and Paper Mills Ltd. on 21st July 2005. The Company had not appeared before the Court. In the Company Application it has been stated that the Company was declared as a Sick Industrial Company under the provisions of Section 3(1)(o) of the Sick Industrial Companies (Special Provisions) Act, 1985. The Order of the B.I.F.R. dated 14th May 2003 shows that Reference 304 of 2000 was pending before the B.I.F.R. Counsel

appearing on behalf of the Applicant has adverted to a communication dated 25th November 2007 issued by the B.I.F.R. listing the reference for further hearing on 14th March 2007.

2. In these circumstances, having regard to the provisions of Section 22(1) of the Act, an order of winding up could not have been passed. Evidently, the Court was not apprised of the proceedings before the B.I.F.R. since the Company had not appeared at the final hearing of the Petition.

3. Having regard to the provisions of Section 22(1) of the Act, the relief sought in the Company Application would have to be granted. The order dated 21st July 2005 is accordingly recalled and the petition is restored to the file. The Petition shall now stand adjourned to 15th October 2007. The Applicant shall file an affidavit before this Court on or before 5th October 2007 explaining the status of the proceeding before the B.I.F.R.

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